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REMARKS/ARGUMENTS

Reconsideration of the present application, as amended, is respectfully requested.

A. CLAIM AMENDMENTS

As a result of the present amendment, claims 1-35 are presented in the case for continued prosecution. In claim 20, the antecedent basis has been amended. Claims 32, 34 and 35 are amended to recite compounds of claim 10. No new matter has been added.

B. RESTRICTION REQUIREMENT

In response to the restriction requirement, Applicants elect to prosecute in this patent application Group II, claims 1-10, 13 and 16, drawn to methods of making vancomycin-polymer conjugates of Group I. This response is made with traverse and it is urged that the claims contained in Groups I-II be examined together. Reconsideration is respectfully requested.

The conjugates of Group I as claimed are necessarily made by methods of the elected Group II. As such, the search directed to the invention of the elected Group II will overlap a search strategy directed to the invention of the non-elected Group I. Accordingly, Applicants urge that there would not be an undue burden upon the Examiner to search and consider Groups I-II at the same time.

In addition, the Examiner has the discretion to prosecute all of the pending claims in a single patent application. In fact, "[I]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions." (Emphasis added; Manual of Patent Examining Procedure, § 803, second paragraph).

Separately, the Examiner has not included claims 11, 12, 20, 32, 34 and 35 in any of the identified five (5) groups. (See page 3). Claims 11 and 12 include a further step in addition to the step in the claims directed to the elected group. Thus, claims 11 and 12 are related to the invention of the elected group and should be examined together.

It is believed that claim 20 as amended now belongs to the invention of Group III. Claims 32, 34 and 35 as amended recite compounds of claim 10.

Thus, for reasons of efficiency in prosecution and searching, it is urged that Groups I-II and

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claims 11-12 be examined together and the Examiner is respectfully requested to reconsider and withdraw the present Restriction Requirement.

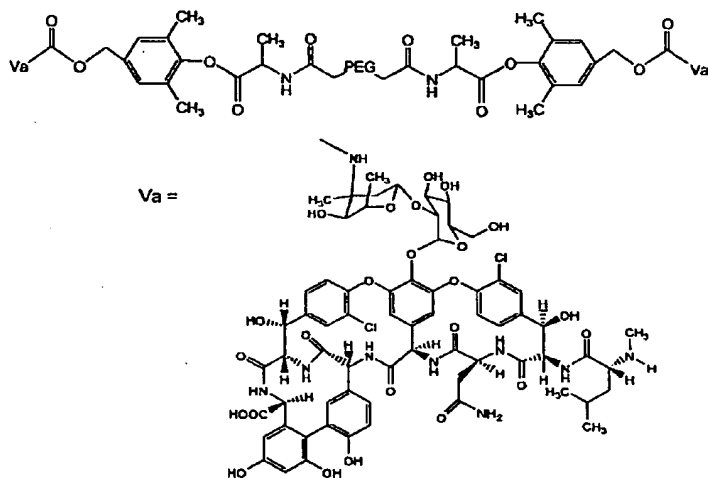
There is no change in inventorship based upon this selection.

C. ELECTION SPECIES

On page 6, the Examiner indicated that claims 1-9, 14-16 are generic to compounds including monopolymer-vancomycin conjugates and claims 17-19, 21-23, 25-30, 31 and 33 are generic to compounds including dipolymer-vancomycin conjugates.

In response to the election of species requirement, Applicants elect to prosecute the species corresponding to compound 22 as described in Example 16 and Figure 3 in the event that no generic claim is finally held allowable. It is believed that claims 1, 2, 5-10, 13, 16 currently read on the elected species. In the event that claims directed to the non-elected Group I are examined together, it is believed that claims 14-15 are also readable on the elected species.

Compound 22 is a species prepared by the method of claim 1, i.e., reacting compound 21 with compound 1. See Fig. 3. Compound 22 has the following structure:



With regard to Formula (I) of claim 1, and claim 2, compound 22 corresponds to:

R₁₂ is CH₃;

R₁₃ is OH;

w is 1;

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R_1 is a polyethylene glycol residue with a molecular weight of 40,000 Da;

L_1 is $\text{NHCH}(\text{CH}_3)$;

Y_1, Y_2, Y_3 and Y_4 are O;

Ar is dimethylphenyl;

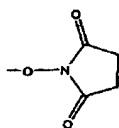
R_3 and R_4 are H; and

n, o and p are 1.

The reactants, compound 21 and compound 1, contain the elements corresponding to:

R_{11} is H; and

B_1 is



This response to the requirement of the election of species is also made with traverse. Reconsideration is therefore respectfully requested. It is believed that all the compounds prepared by claim 1 should be examined together and that the differences of species is not such as to require separate examinations. Accordingly, it is urged that, in the interest of efficiency in prosecution, all the species be examined together.

D. REJOINDER

Applicants reserve the right to request rejoinder of all appropriate claims removed by the Examiner in the event that the traversal is not deemed persuasive.

E. FEES

This response is being filed within the shortened period for response. Thus, no further fees are believed to be required. If, on the other hand, it is determined that any further fees are due or any overpayment has been made, the Assistant Commissioner is hereby authorized to debit or credit such sum to Deposit Account No. 02-2275.

Pursuant to 37 C.F.R. 1.136(a)(3), please treat this and any concurrent or future reply in this application that requires a petition for an extension of time for its timely submission as incorporating a petition for extension of time for the appropriate length of time. The fee associated

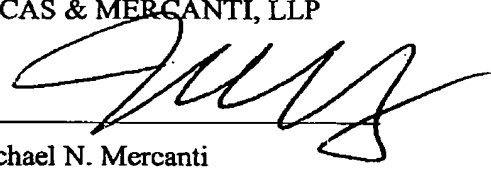
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therewith is to be charged to Deposit Account No. 02-2275.

An early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

LUCAS & MERCANTI, LLP

A handwritten signature in black ink, appearing to read 'M. Mercanti', is written over a horizontal line.

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